

**POLICY**

All written and signed court orders must be accepted by the local Department of Human Services (DHS) office. If the court order and/or documents appear to conflict with DHS policy, see Actions for Problematic Court Orders for procedures in this item.

**PURPOSE**

The department assumes legal and service responsibility for a youth on the date the court order for referral or commitment is signed by the judge/referee.

**AUTHORITY**

Probate Code, 1939 PA 288, as amended, MCL 712A.1 et seq.

Youth Rehabilitation Services Act, 1974 PA 150, as amended, MCL 803.301 et seq.

**PROCEDURE**

Each local office has been delegated the responsibility and authority to handle the official acceptance of these orders. Since this task occurs prior to assignment of the case responsibility to a juvenile justice specialist, it is a supervisory or administrative responsibility.

**DHS  
ACCEPTANCE/DAT  
E OF COURT  
ORDER**

The date of acceptance is the date the court order is signed by the judge/referee.

The department assumes legal, financial and service responsibility at the point a child is accepted for placement and care. Each local office has been delegated the responsibility and authority to handle the official acceptance of such children. All court material must be date stamped upon receipt. The SWSS FAJ (Service Worker Support System Foster Care, Adoption and Juvenile Justice) acceptance date is the date the court signs the order.

The date of acceptance must be confirmed by the local office by sending a DHS-3204, Youth Acceptance Notice, RFF 3204, to the referring/committing court; and by sending a DHS-4526,

Parent/Guardian Notification of Acceptance, RFF 4526, to the parent/guardian.

**COURT  
RESPONSIBILITIES  
WHEN  
REFERRING/COMMITTING A YOUTH**

- Having the youth available.
- Forward to the local office complete and accurate documents which include:
  - Original or true copy of the petition.
  - Original or true copy of the order referring/committing the youth to the department.
  - Social and psychological data that the court has available. This includes all information available regarding any rehabilitative efforts the court has attempted to provide the youth.
  - Report of medical examination done not more than 30 days prior to commitment, or at the time of the most recent admission to detention (only for youth committed under Act 150).
  - Birth certificate/verification.
  - Social Security number.
  - Police report.
  - Current photograph of youth taken within one year.
  - Detailed victim information: name, address, telephone number, date of birth.
  - Indication that the victim requested/did not request information/notification.

**PROPER  
WORDING OF THE  
COURT ORDER  
WHEN THE  
COURT COMMITS  
OR REFERS A  
YOUTH TO DHS**

The court orders must include:

- The birthdate of the youth. (Youths committed under Act 150 by the Family Division of the Circuit Court must be at least 12 years of age at the time they are committed to the department.)
- A statement indicating that the youth is referred or committed to DHS and the legal basis for the court's disposition.
- A statement identifying the director of DHS as the special guardian to receive any governmental benefits due the youth.
- A statement providing for reimbursement by the child, parent, or guardian even if the amount is zero.
- For juvenile court wards who are referred to the department, the words "Referred to the Michigan Department of Human Services for placement and care under Public Act 280 of 1939", (MCL 400.55(h)) are preferred. However, the words "placement and care," or "care and supervision," or "placement and supervision" may be used without adversely affecting title IV-E eligibility.
- Orders for state wards must include the words "committed to the Michigan Department of Human Services." The public act under which the youth is committed (either the Youth Rehabilitation Services Act 1974 PA 150 or the MCI Act, 1939 PA 220) must be identified on the commitment order. Orders for court wards must contain the words: "placed with the Michigan Department of Human Services for placement and care." See MCL 400.55(h).
- Orders issued by tribal courts for Indian children have the same validity as do Family Court orders. These orders must make the department responsible for placement and care.
- The committing offense.

- Court transcript of the findings and conditions of the referral/commitment.

**Note:** Youth committed by the criminal division of the Circuit Court are not eligible for title IV-E funding, but these orders should contain similar language.

## **REFERRAL TO CHILD SUPPORT**

All orders, except preliminary or emergency orders, and those for permanent wardship must include a statement providing for "reimbursement by the child, parent, or guardian for the cost of care or service." See FOM 722-1, Foster Care - Entry Into Foster Care, for further information on child support.

## **Friend of Court Notification**

The specialist must notify the Friend of the Court in the following circumstances:

- When the funding source changes - to ensure the money is sent to the appropriate place unless court ordered to continue.
- When the child is returned home - to ensure that the current custodian receives the money, instead of the state/county. See FOM 902-12, Government and Other Benefits, for more information on the DHS-3205.

## **SPECIFICATION IN TITLE IV-E COURT ORDERS**

In order for a youth to be title IV-E eligible, the court order or transcript of the hearing must contain documentation of the evidence used by the court to make judicial findings. The determinations must be explicit and made on a case by case basis and cannot be amended by a subsequent order, e.g., a nunc pro tunc order, which amends the original order. See FOM 902-2, Legal Jurisdiction.

## **TITLE IV-E FUNDING DETERMINATIONS**

Title IV-E is only a funding source. To be eligible for payment under title IV-E, children must, by family court or tribal court order, be

under DHS supervision for placement and care or committed to DHS. See FOM 902-1, Title IV-E Funding Determinations.

**Note:** Children who are determined eligible for title IV-E funded foster care/juvenile justice assistance are categorically eligible for Medicaid.

### **CONTRARY TO THE CHILD'S WELFARE DETERMINATION**

Regulations require the court to make a contrary to the welfare or best interest determination **in the first court order removing the child from his/her home** for title IV-E eligibility. The first court order is defined as the emergency removal order (for example, JC 05) or the preliminary hearing order (for example, JC10 or JC 11a) if there was no emergency removal order. The contrary to the welfare determination must also be made within the first court order or transcript of the hearing for each new placement episode, regardless of whether a new petition is filed or not. See FOM 902-2, Continuation in the Home is Contrary to the Child's Welfare Determination.

### **REASONABLE EFFORT DETERMINATIONS**

The supervising department must make reasonable efforts to prevent removal and finalize the child's permanency plan except under defined circumstances. The child's health and safety must be of paramount concern. See FOM 902-2, Reasonable Efforts Determination.

### **TO PREVENT REMOVAL**

The first determination, "the department has made reasonable efforts to prevent removal from the home," must be made at a court hearing held within 60 days of the child's removal from his/her home. Title IV-E cannot begin until the reasonable efforts judicial determination has been obtained; see FOM 902-2, To Prevent Removal.

**FINALIZE A  
PERMANENCY  
PLAN**

The second determination, “the department has made reasonable efforts to finalize the permanency plan,” must be made within 12 months from the date of removal. See FOM 902-2, Finalize the Permanency Plan.

**ELIGIBLE LIVING  
ARRANGEMENT**

The youth must currently be in foster care in a licensed foster home, licensed private child caring institution, or a DHS child care treatment facility of 25 beds or less. See FOM 902-2, Eligible Living Arrangement.

**U.S.  
CITIZENSHIP/QUA  
LIFIED ALIEN  
STATUS**

Receipt of title IV-E funds must be limited to U.S. citizens and qualified aliens. If the worker determines that a child is not a U.S. citizen or a qualified alien, the child is not title IV-E eligible. See FOM 902-2, U.S. Citizenship/Qualified Alien Status.

**FORMER AFDC  
PROGRAM  
ELIGIBILITY**

The youth must meet all eligibility requirements for the former AFDC program, except that of living with an acceptable relative, in the month in which the court action that led to the youth’s removal occurred. A court action is defined as an order that removes the child from his/her home. See FOM 902-2, Former AFDC Program Eligibility Requirements.

**DEPRIVATION**

In cases of temporary wardship (including delinquent youth) the situation of the child in relationship to the parent or relative home from which he/she was removed must determine eligibility. Deprivation must exist initially and continue thereafter for title IV-E eligibility. If deprivation exists at the point permanent wardship is taken, the deprivation factor must be frozen at that point and will continue to exist as long as the child remains a permanent ward.

Deprivation does not exist solely because parental rights have been terminated; see FOM 902-2, Deprivation.

**INCOME**

The family's income (including the income of the parent(s), stepparent(s), and siblings under age 18) must be considered only in the initial eligibility determination. Income of a non-parent adult or living together partner must not be considered.

**Note:** Adoption subsidy must be considered unearned income and must be budgeted within SWSS-FAJ if the adoption has been finalized. Only the first \$76.00 of the subsidy, per child, is considered as income. Prior to finalization, adoption subsidy is not considered as income.

For redeterminations, the income of the parents must not be considered except for the amount of court ordered support.

**CONTINUED  
FORMER AFDC  
ELIGIBILITY**

The youth must continuously meet the former AFDC program eligibility other than living with an acceptable relative; see FOM 902-2, Continued Former AFDC Eligibility.

**COURT ORDER  
WITH ORDERED  
PAYMENTS**

Court order of payments for reimbursements/restitution or collection of government benefits must be sent to the Reconciliation and Recoupment Section, P.O. Box 30025, Lansing, MI 48909.

**ACTIONS FOR  
PROBLEMATIC  
FUNDING-  
RELATED COURT  
ORDERS**

Copies of problematic court orders involving funding issues must be faxed to the Bureau of Juvenile Justice (BJJ) director at 517-373-2799 for review the next working day.

Follow the requirements in FOM 902-2, Title IV-E Eligibility Requirements, FOM 902-5, Title IV-E Funding Denial or

Cancellation, and FOM 902-6, Court Orders Requiring Inappropriate Payments, for actions on these court orders.

**ACTIONS FOR  
OTHER  
PROBLEMATIC  
COURT ORDERS**

Copies of other problematic court orders must be faxed to the BJJ director at 517-373-2799 for review the next working day.

The local office must obey the court order but must also immediately discuss the problematic aspects of it with the court and request the needed changes. Then the local office must make a second contact with the BJJ director within five working days of receipt of the order to notify central office of the efforts made to resolve the issues and of the results of those efforts. This contact may be by telephone or by memorandum.

Final decisions on whether to request an appeal or amendment through the Attorney General's Office must be made by representatives from Legal Affairs, Children's Services, and a juvenile justice specialist. Since the appeal can only be effected within 20 days of the order, immediate transmittal of the problem order must be directed to central office. Central office may proceed through Legal Affairs to request Attorney General intervention before the second contact from the local office if such action appears necessary.